SUPREME COURT, U. S.

JUL 27 1970

ROBERT SEAVER, CLERK

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1970
No. 451

TILDEN W. JOHNSON,

Appellant,

vs.

STATE BAR OF CALIFORNIA, a public corp., HUGH W. DARLING, SAMUEL O. PRUITT, JR., A. STEVENS HALSTED, JR., and HARVARD CLUB OF SOUTHERN CALIFORNIA,

Appellees.

JURISDICTIONAL STATEMENT

1. See included by reference appeal prior to full State Process of Oct. Term 1969, No. 434.
2. Calif. Court of Appeal Dismissal 4-28-70 of Appeal from Order after void judgment.
3. Decisions in 1970 showing Calif. Bar Act Unconstitutional as Construed and Applied.

TILDEN W. JOHNSON
5630 Sawtelle Boulevard
Culver City, California 90230
(213) 398-1605 388-7104

In Propria Persona

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IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1970
No. _____

TILDEN W. JOHNSON,

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STATE BAR OF CALIFORNIA, a public corp., HUGH W. DARLING, SAMUEL O. PRUITT, JR., A STEVENS HALSTED, JR., and HARVARD CLUB OF SOUTHERN CALIFORNIA,

Appellees.

JURISDICTIONAL STATEMENT

1. Appellant appeals from judgment of Court of Appeal, Second Appellate District, State of California (hereinafter Calif. Court of Appeal) made and entered on April 28, 1970 and the order of that court denying a petition for a rehearing entered May 22, 1970 by which judgment and refusal to rehear the said Court dismissed the appeal from the denial of the Superior Court of the State of California in and for the County of Los Angeles (hereinafter

Superior Court) of a motion after return of remittitur to inspect the judgment roll per California Law and vacate and void the judgment of Hon. Robert W. Kenny who was a party of the class action defendants and to tax costs to defendants or tax costs at the lowest reasonable printing charges.

This was a necessary motion to determine if per California law the proper mode of contesting a judgment void per Calif. Code of Civil Procedure (hereinafter C. C. P.) was a motion to void after return of remittitur rather than by appeal as in Appeal 434 of the Oct. Term of the Supreme Court of the United States. Said appeal 434 to U. S. Supreme Court, Oct. Term, 1969 made a part of this appeal by reference, now that full state process has been exhausted.

2. Appellant also appeals from the refusal on April 28 and May 22, 1970 of said Calif. Court of Appeal to accord the due process of a hearing of evidence showing their opinion, now 268 Cal. App. 2d 437 should be vacated and voided because Justices Parker Wood and Mildred L. Lillie had failed to declare their principalship to class sued defendant alumni of USC and Harvard, a relationship prohibited by section 170 C. C. P., i.e. Justice Wood was a Trustee of Methodist Conference using their subsidiary Univ. of Southern Calif. alumni to practice law as a unit without a license, and Justice Lillie was a Trustee in the Catholic University System of the U. S. A. substantially

in control of Massachusett Legislature and using class sued Harvard alumni to practice law and public relations, and insurance adjusting without a license, an activity class sued herein.

3. Appellant also appeals refusal of said Calif. Court of Appeal refusing to hear arguments and pass on due process federal questions presented on said April 28, and May 22, 1970. Appellant also appeals the denial of a hearing by the Calif. Supreme Court on June 24, 1970, entered same date which left the said Calif. Court of Appeal possessed of the record as being the highest state court in which a hearing could be had.

4. Appellant also appeals construction and application of the provisions of the Calif. Bar Act as aforesaid as making said Bar Act repugnant to the due process and equal application of law provisions of the U.S. Const. 14th Amendment, in that the act provides no provision for an impartial tribunal to determine whether Bar Examinations are honestly administered and honestly passed, and said constructions tends to establish a State Religious monopoly contrary to the First Amendment of U.S. Const. and violates the provisions of Article I, section 10(1) of the U.S. Const. forbidding the issuance of titles of nobility called attorneys in California, for unless provision is made to provide impartial tribunals to establish honest examination, the award of the title "attorney"

becomes merely the award of a title of nobility carrying privilege over average citizenry.

OPINIONS BELOW

Exhibit "A", in Appendix herein consists of appealed June 6, 1969 denial of a motion to vacate and void the judgment of Hon. Robert W. Kenny per Calif. C.C.P. Sec. 170 upon inspection of the judgment roll and tax costs to defendants or tax costs most reasonable printing rates, made by Hon. A. Edwards Nichols, Judge Pro Tem of the Superior Court (who limits talk to avoid federal question).

The above proceedings were based on Roberts v. Roberts, 241 Cal. App. 2d 93 which held:

> "It is well settled that a judgment or order void on its face, and which requires only an inspection of the judgment-roll or record to show its invalidity, may be set aside on motion at any time after its entry, by the court which rendered the judgment or made the order."

Calif. Code of Civ. Proc. constitutionally applied per due process hold judgments by judges who are parties are absolutely void where ever and whenever questioned.

Exhibit "B" in Appendix herein shows Calif. Court of Appeal order of April 28, 1970

dismissing the appeal of the Superior Court order. Exhibit "C" shows order of May 22, 1970 denying a rehearing (clearly to avoid federal questions and leave Calif. Court of Appeal possessed of the record).

The opinion of the Calif. Court of Appeal, copied from sham defendant pleadings misstating facts and violating due process appears in 268 Cal. App. 2d 437 and in appendix of Jurisdictional Statement of Oct. Term 1969 of the Supreme Court of the United States Appeal or Pet. 434 which Pet. 434 is made a part hereof by reference and lists other opinions. Said opinion also appears in the Superior Court Clerk's transcript part of record herein. Exhibit "D" Appendix herein is Calif. Supreme Court order denying a hearing June 24, 1970.

JURISDICTION

See jurisdiction, pages 8-10 in Appeal or Pet. 434 of Oct. Term, 1969, Supreme Court of U.S. made a part hereof by reference and above Roberts case supra.

Notice of appeal of proceedings after return of remittitur 268 Cal. App. 2d 437, see Roberts case, supra, was filed July 20, 1970 in the Calif. Court of Appeal under 28 U.S.C. Sec. 1257(2) and said section 1257 generally and section 2103 of said code. Appellant argued federal questions pleaded from the motion in Superior Court through the State Courts.

Thus the U.S. Supreme Court has jurisdiction of this appeal, due to said sections and violations of federal constitution.

STATUTES INVOLVED

See this section in jurisdictional Statement in prematurely filed Appeal 434, Oct. Term of U.S. Supreme Court said appeal or Pet. 434 made a part hereof by reference.

With the proceedings after judgment per Roberts case, supra, revealing further construction and application of the California Bar Act the question has now principally shifted to the ground that as construed and applied the said California Bar Act is unconstitutional as shown later herein.

The California Bar Act, sections 6000 through 6154, containing sections that as construed and applied are submitted to be unconstitutional as repugnant to the 14th, 1st Amendments and Article I, section 10(1) of the Constitution of the United States is published in West's Annotated California Business and Profession Code, Vol. containing Section 4000 to 6699, pages 310 to 576. Sections 6046 and 6047 of said Code directly involved appear on pages 339-341, and section 6065 on page 363 and State Bar Rule VI, sections 63 on page 390. Deering's Annotated Code also contains the said sections of the

Bar Act. See Exh. "F" Appendix herein.

Clearly the Calif. Legislature intended the right of the Public Corporation the State Bar to sue and be sued, section 6001, in contract to provide an impartial tribunal of a jury trial of facts relative to bar examination representations and administrations to overcome clear lack of provisions for an impartial tribunal to try such matters as honesty of examinations and whether passed.

However, as occured herein the Calif. Courts construe and apply this sue and be sued to mean "Judges classed sued" can try their own cases contrary to Sec. 170 Calif. Code of Civ. Proc. and maneuver an appeal of their irregularity to a Court of Appeal whose justices are principals of the university class sued alumni being Trustees of Catholic and Methodist organizations that made subsidiary corporations of the universities. This construction of section 6001 of the Calif. Bar Act with like construction of section 6065 of said Act deprives bar examinees of an impartial tribunal to try honesty of bar examining procedure and to force proper mathematical calculations of the examinations.

QUESTIONS PRESENTED

1. As construed and applied herein is the California Bar Act so vague, and ambiguous and indefinite in providing an impartial tribunal to decide and prove whether an honest Bar Examination is given and honestly calculated mathematically and passed by a Bar admission applicant examinee that said Bar Act is repugnant to the provisions of due process and equal protection of law required by the 14th Amendment and violates Article I, Sec. 10(1) forbidding the issuance by a state of titles of nobility called "attorneys" in California?

2. Question 1 includes answering questions necessary to a resolution of question 1 as for example: Does current construction and application of Calif. Bar Act whereby religious foundations convert their universities to de facto subsidiary corporations so the entire alumni of said university can practice law as a de facto corporation nationally without a license in competition with individuals required to pass examinations and carry licenses constitute a violation of the 1st Amendment of U. S. Constitution forbidding the establishment of a religion by a state or the U. S. A. ? I. e. the U. S. A. Catholic University System represented by official Justice Lillie whose system has substantial control of Massachusetts Legislature uses alumni of Harvard to practice law de facto without a license nationally while she and Justice Wood, a trustee of Methodist

Conference likewise using Univ. of Southern Calif. writes up a derogatory opinion of appellant in 268 Cal. App. 2d 437 while refusing to declare their own disqualifications and vacate and void said judgment opinion as requested todo per State Law in a motion they should have ruled on prior to appeal dismissal?

STATEMENT OF THE CASE

Appellant-plaintiff was reared on a farm, and per Lincoln precedent made use of time at night to study law using correspondence law school texts and state codes priorly used by a relative. It was useful knowledge to operate a business. Several years of home study of law, science, history, social science, humanities, and biological and physical sciences were supplemented by two years of attendance and in 1947 appellant graduated from UCLA with a Business Administration Degree which supplemented with years of Engineering and Construction, iron and wood, experience resulted in a Building Contractor's License where more law was needed and as a result the correspondence law school study was completed formally and a LLB Degree secured in Law in 1949.

Appellant who made high grades in school where the authorities proved the honesty of the examinations to all, started taking bar examinations in 1949. When it came time to explore the honesty of the Bar examinations,

appellant was told the State Bar could not open up their records for fear they would be sued by everyone. Section 6065 of the State Bar Act states the applicant may examine the grading of his papers. The State Bar can only justify the and prove the points they claim are scorable by comparing scores of examinees. The word "grading" means the process of arriving at a rating. Thus it was clear, section 6065 was construed and applied contrary to its English. The courts in California have not moved to correct the methods of the State Bar Examiners for 40 years, or force correct grade calculations.

However, section 6001 of the Calif. State Bar Act (see Exhibit "F" Appendix herein) stated the State Bar could "sue and be sued" in contract. Thus since the examination was a contract, appellant noted he should try the examination once more in 1963 and if unsuccessful, sue in Superior Court in breach of contract, breach of warranty, fraud, and/or negligence. When appellant was tendered a grade of 495/800 in 1963, a suit was filed for 495/600.

The California Legislature did not provide the court with any money to pay Bar Examiners and to hire engineers or mathematicians to correctly calculate the bar examination. As a result the Calif. Supreme Court had to beg big universities to persuade prominent members of their alumni to serve as Governors of the State Bar and as Bar Examiners. It was clear such universities

were demanding privileges of advance information of the bar examinations. It was clear that the universities through their alumni were taking advantage of the unsavory conditions produced by the legislative failure to provide funds to pay bar examiners to work in the interest of the public and the state. It was therefore necessary to class sue through class representatives Messrs. Darling of USC and Pruitt, Jr. of Harvard, and A. Stevens Halsted, Jr. of Stanford and Harvard along with the State Bar. These particular class sued representatives had also served as Bar Governors and/or Bar Examiners during some period of appellant and State Bar contractual relationship. Harvard Club was a full group of locally involved Harvard Alumni clearly practicing law de facto without a license.

However, instead of just answering their interrogatories and appearing for depositions and establishing the truth of facts, the State Bar and et al., at once started a construction and application of section 6001 of said State Bar Act whereby they illegally took their defense before a judge who was a class sued alumnus of USC and Stanford, the Hon. Robert W. Kenny. He just copied their sham contentions and refused to abide by section 170 Calif. Code of Civil Procedure and sat inspite of a disqualifying declaration affidavit, and knowledge his judgment was void. This violation of due process and equal application and protection of law (right to establish by compulsory sworn testimony the honesty or lack of honesty and

validity of Bar examination ratings and the mathematical calculation thereof] was followed by said State Bar maneuvering the appeal of the Kenny judgment before Division One of the Court of Appeal, Second Appellate District.

State of California, composed of: Justices Parker Wood, Mildred Lillie, and Walter Fourt, alumni respectively of Washington University of St. Louis, Mo., University of California, and University of California with Justice Lillie failing to state in most recent biography she was a graduate of UC. This panel wrote and signed 268 Cal. App. 2d 437, i.e., they just copied in a footnote part of appellant complaint. For the most part, they just copied the sham pleadings and contentions of Harvard Club and State Bar attorney's briefs which an examination of the file will show grossly misrepresents the complaint sufficiency and ignored the judge being a sued party, not just a party in interest. Judge Kenny just copied the Harvard brief as though a Harvard brief sham contention would apply to other defendants.

That opinion was shown to be in error in a petition for a rehearing which the said Court of Appeal ignored. It later developed from investigation, Justices Wood and Lillie were actually through religious trusteeship the principals of the class sued universities, but they failed to declare same in accordance with Sec. 170 Calif. Code of Civil Procedure. Their opinion was appealed to the California

Supreme Court that to avoid federal questions and because of obligation to people who had worked free for the court in exchange for privilege did not order a hearing but relied on the said Court of Appeal.

A Petition for Recall of Remittitur was called for per State Law and should have been granted (see Pet. 434 Oct. Term, 1969 U. S. Supreme Court Jurisdictional Statement per Calif. Court Rule 25[d]), but again the California Supreme Court construed and applied section 6001 of the State Bar Act making the State Bar capable of sueing and being sued to mean if the State Bar was sued that it could construe and apply the law to mean that class sued judges and Justices could sit and dismiss the case and fail to follow Calif. State Law generally. This constituted a final judgment (except for Superior Court and Court of Appeal Opinion both being void where ever and whenever questioned). It was the duty of the court to vacate the judgments upon demand. It however was risky not to carry the matter to the U. S. Supreme Court, made a part hereof by reference. Said Pet. 434 appealed the Court of Appeal opinion 268 Cal. App. 2d 437 as a violation of pleaded due process and equal protection of law repugnant to the 14th Amendment of the U. S. Constitution. Two appeals were filed in said Pet. or appeal 434, Oct. Term, 1969 U. S. Supreme Court. One appeal was directed at the court possessed of the record i. e., the Court of Appeal as aforesaid. The other appeal was for failure of the Calif. Supreme

Court to honor due process by acting separately on its own to recall the remittitur and vacate the judgments in a separate motion to that effect for which alone the Calif. Supreme Court was possessed of the record and duty to act on their Rule 25(d) if the rule was given a constitutional interpretation per said 14th Amendment of U.S. Const.

The appeal as to the Court of Appeal was dismissed for lack of jurisdiction, i.e., it was not filed in 90 days of Court of Appeal judgment per 1967 Rule 13, appellant had relied on earlier 150 days, Rule 13 prior to 1967. As yet the U.S. Supreme Court has entered no specific order specifically directed at the appeal of Calif. Supreme Court unconstitutional failure to act per constitutional (U.S. Const.) duty of Rule 25(d). See Jur. Statement in said 1969 U.S. Supreme Court Pet. 434 a part hereof by reference.

This Oct. 1970 Appeal
Following Return of
Remittitur

As shown herein and in the record herein when the case returned to Superior Court, appellant arguing due process required the action as well as Calif. State Law moved the Superior Court to consult the judgment roll and note Judge Kenny a class sued party and vacate his judgment. However, Judge Nichols believed since the Court of Appeal had written opinion 268 Cal. App. 2d 437

regardless of error that he should deny the motion and let the Court of Appeal that wrote said opinion do the judgment and opinion vacating.

Upon appeal of the Hon. Judge A. Edward Nichols' order of motion denial (including taxing costs), the State Bar and defendants first incurred default by not answering the opening brief timely, and after defaulting to appellant appeal, filed a motion to dismiss the appeal.

Appellant moved the said Court of Appeal on April 28, 1970 to hear argument showing why Justices Wood and Lillie were principals of the class sued USC and Harvard alumni as being trustees in religious organizations having a subsidiary like control of said Universities, but said Court of Appeal refused to hear argument and statement showing their duty to vacate opinion 268 Cal. App. 2d 437, or to enter the default of defendants to the appeal or to hear the appeal and other motions, curtailed argument contrary to Calif. Rule of Court 22, and dismissed the appeal, denied a petition for a rehearing evidently to avoid ruling on the federal question, and the Calif. Supreme Court evidently to avoid the federal questions presented of due process violation denied a hearing, leaving the Court of Appeal possessed of the record. Actually, the judgment as shown in opening brief in Court of Appeal was ultra vires, in excess of jurisdiction, for passing on matter not legally part of pleading and void on that ground.

THE FEDERAL QUESTIONS ARE SUBSTANTIAL

See the Jurisdictional Statement of appeal 434 of the Oct. Term, 1969 of U. S. Supreme Court made a part hereof by reference as the action following motion to vacate the judgments after return of the remittitur was in fact necessary to fully complete Calif. State Process and all matter is just now fully appealable regarding federal questions.

Proof that these questions propounded herein regarding practices arising (see Exhibit "G" herein) from Bar Acts forcing State Courts to beg free help to do court work and pay for same by granting university alumni privileges equal in fact to practicing law without a license, and practice of public relations, and insurance adjusting using State Bar Offices as national branch offices are important is proved by the current impeachment talk of Justices and Judges all over the nation. For example recent Justice Fortas who followed custom and voted hundreds of times not to hear appeals and then undertook to lecture found after impeachment talk started that the money he received to lecture was put up by insurance executives profiting from the unheard appeals.

This is clear evidence the U. S. Supreme Court should vote to hear this appeal and hold the Calif. State Bar Act as construed and applied herein failed to provide an impartial tribunal to

control correct mathematical calculations of bar examinations and to settle disputes of the propriety and honesty of bar examining procedures and that until the Calif. Legislature appropriates money to pay bar examiners and individuals performing duties for the courts that the Calif. Bar Act is repugnant to due process, and is violating Article I, Sec. 10(1) in that it is just issueing titles of nobility called "Attorneys in Calif." instead of concentrating on education and public welfare, and that construction also violates the First Amendment, U.S. Const. by construction and application as herein tending to establish the Catholic and Methodist foundations as the State religion of California, see Appendix in Petition for Calif. Supreme Court hearing. Read Briefs in State court.

CONCLUSION

Based on the foregoing, appellant respectfully submits that the inequities and issues of national importance presented should prompt the United States Supreme Court to exercise its jurisdiction in this case and issue an order vacating said Superior Court and Court of Appeal opinions in 268 Cal. App. 2d 437 and direct such further relief to appellant as to the court seems meet and proper. Certainly Calif. State Courts

should not be permitted to violate federal laws and constitutional provisions and misapply costs to prevent lawful contract suits in California.

Even if the U.S. Supreme Court does not consider the violations of federal constitutional provisions are so clear as to justify issuance of a prompt order of summary reversal of both appeal dismissal that is appealed herein and for summary reversal of opinion 268 Cal. App. 2d 437, at least the court should assume jurisdiction and require argument. It is submitted what has occured herein constitutes a complete breakdown of law. Even if a void judgment does not bar a new suit thereon, violations of due process and equal protection of law as herein where the offending party is given right to costs can be repeated everytime a new suit is filed and by illegal use of void judgment and costs - all suits for contract and tort violations effectively eliminated in all States of the United States, a condition that would reflect on the U.S. Supreme Courts discharge of duty and jeopardize public welfare.

If costs twice the reasonable costs of printing are allowed as reasonable, then the word reasonable is so vague as to make section 1033 and 1034 of Calif. Code of Civil Procedure and Calif. Rule of Court 26 repugnant to the 14th Amendment of U.S. Constitution as shown in Opening Brief and

Brief to Calif. Supreme Court in record on appeal.

Respectfully submitted,

TILDEN W. JOHNSON,

In Propria Persona

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPT. 63

25

Dec. March 6, 1959 Hon. A. FORGEY HANNUM, Judge Pro Tem, Deputy Sheriff, J. H. Shabazian, Deputy Clerk, Reporter

2

(Parties and counsel checked if present)

833,372

Counsel for Plaintiff

Wilbur W. Johnson

Counsel for Defendant

vs

Forestry Club of Southern California, et al

AZ

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NATURE OF PROCEEDINGS

Motion to state matter appeal to U. S. Supreme Court

or

void and tax costs against defendants

or

to tax costs at lowest cost available.

Motion to tax costs, abate for further appeal

or

to void judgment and award appeal costs to plaintiff

(Both matters submitted Nov. 27, 1959)

In these matters, heretofore submitted, the Court now makes the following orders:

Plaintiff's Motions to Tax Costs on Appeal are each and all denied.

Plaintiff's Motions to Abate are each and all denied by reason of decisions of State Court of Appeal and United States Supreme Court in this matter.

Plaintiff's Motions are denied in their entirety.

Plaintiff in Propria Persona and counsel for defendants are notified by mail.

Counsel for defendants to give notice of rulings.

EXHIBIT "A"

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

TILDEN W. JOHNSON, Plaintiff and Appellant, v. STATE BAR OF CALIFORNIA, etc., et al., Defendants and Respondents.	)	2d Civ. 36854 Minutes

Justice Thompson not participating in the following twelve matters:

* * * * *

Motion to dismiss appeal. Douglas C. Conroy, appearing for respondent Harvard Club. Presented by William P. Peters for respondents and opposed by Tilden W. Johnson, appellant in pro per. Motion granted, appeal dismissed.

* * * * *

Date: April 28, 1970

EXHIBIT "B"

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

THEDY M. JOHNSON, Plaintiff and Appellant, v. STATE BAR OF CALIFORNIA, etc., et al., Defendants & Respondents.	)	2d Civ. 30698 Minutes

THE COURT:

Petition for rehearing denied.

Date: May 22, 1970

EXHIBIT "C"

ORDER DUE
June 26, 1970

ORDER DENYING HEARING
AFTER JUDGMENT BY THE COURT OF APPEAL

2nd District, Division 1, Civil No. 35954

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN BANK

(Cr. Grote Hearing)

SOLOMON

v.

STATE BAR OF CALIFORNIA ET AL.

Petitioner's petition for hearing DENIED.

FILED

JUN 24 1970

WILLIAM I. SULLIVAN, Clerk

By ..... Deputy

I, WILLIAM I. SULLIVAN, Clerk of the Supreme Court of the State of California, do hereby certify that the foregoing is a true copy of an order of this Court, as the same appears of record.

Witness my hand and the seal of the Court this 21st day of July A.D. 1970

WILLIAM I. SULLIVAN

By R. Johnson Deputy Clerk

WRIGHT
Chief Justice

EXHIBIT "D"

[Civ. No. 32355. Second Dist., Div. One. Dec. 23, 1968.]

TILEEN W. JOHNSON, Plaintiff and Appellant, v. STATE BAR OF CALIFORNIA et al., Defendants and Respondents.

[1] Attorneys—Right to Practice and Admission to Bar—Eligibility.—Under the Rules Regulating Admission to Practice Law providing that the passing grade for the first-year law students' examination shall be 70 percent of the highest possible grade, [rule VI, § 63], the requirement is that a person to pass must receive a grade of 70 percent of the highest possible (although perhaps improbable) grade of 100 percent.

[2] Appeal—Review—Grounds of Decision—Demurrer.—If a general demurrer should have been sustained on any of the grounds urged, the judgment should not be reversed; it is the validity of the court's action in sustaining the demurrer which is reviewed and not the court's opinion or stated reason for its action.

[3] Attorneys—Right to Practice and Admission to Bar—Rights of Applicant.—In an action against the State Bar and former members of the Board of Governors thereof, and the Harvard Club of Southern California, based on breach of contract, fraud, negligence, and unfair competition and/or unfair uses of foundations, for damages allegedly arising from defendants' declaration that plaintiff had failed to pass the first-year law student examination by virtue of an incorrect grading system, the court properly sustained defendants' general demurrers without leave to amend where the whole theory of plaintiff's entire purported case was based on his erroneous interpretation of the Rules Regulating Admission to Practice Law.

[4] Fraud — Actions — Pleading — Allegation of Facts. — In an action against the Harvard Club of Southern California based on fraud, the trial court properly sustained a general demurrer as to such defendant where no facts and circumstances were set forth in the complaint which constituted fraud on the part of the Harvard Club.

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[1] See Cal.Jur.2d, Rev., Attorneys at Law, § 32.

[2] See Cal.Jur.2d, Appeal and Error, § 537; Am.Jur.2d, Appeal and Error, §§ 785, 870.

[4] See Cal.Jur.2d, Fraud and Deceit, § 61 et seq; Am.Jur.2d, Fraud and deceit, § 424.

McK. Dig. References: [1] Attorneys at Law, § 13; [2] Appeal and Error, § 1008; [3] Attorneys at Law, § 7a; [4] Fraud and Deceit, § 57(1); [5] Judges, § 43(0.5).

[5] Judges—Disqualification—Grounds—Interest of Judge.—In an action against the State Bar and former members of the Board of Governors thereof, and the Harvard Club of Southern California, based on breach of contract, fraud, negligence, and unfair competition and/or unfair uses of foundations, for damages allegedly arising from defendants' declaration that plaintiff had failed to pass the first-year law student examination by virtue of an incorrect grading system, the trial judge properly reviewed a declaration filed in support of a motion to disqualify him, found it insufficient as a matter of law, and denied the disqualification motion, where the declaration failed to assert that the judge was a member of the Harvard Club or a graduate of Harvard but did set forth that the judge attended the University of Southern California and the law school at Stanford University.

APPEAL from judgments of the Superior Court of Los Angeles County. Robert W. Kenny, Judge. Affirmed.

Action by an applicant for admission to the practice of law for alleged breach of contract, fraud, negligence, and for unfair competition and/or unfair uses of foundation. Judgments of dismissal after general and special demurrers to amended complaint were sustained without leave to amend, affirmed.

Tilden W. Johnson, in pro. per., Plaintiff and Appellant.

William P. Peters, Paul, Hastings, Janofsky & Walker and Oliver S. Green, Jr., for Defendants and Respondents.

KOURT, J.—This is an appeal from two judgments of dismissal after orders sustaining demurrers to an amended complaint without leave to amend.

In a complaint filed January 13, 1964, plaintiff brought an action against the State Bar of California, a public corporation (hereafter referred to as State Bar and certain Does I through XXV). Plaintiff asserted that he had applied for admission to practice law in California in 1949 and that he had taken the first-year law student examinations in 1949, 1950, 1951 and in 1953 and was not awarded a passing grade in any of said examinations. Further that in 1963 the Committee of Bar Examiners stated that all examinees who wrote "examination papers equaling 70% of the highest possible grade would be passed." That he, the plaintiff, paid an examination fee of $10 and a typing fee of $5 and again took the first

EXHIBIT "A"
as it appears in 268 Cal.App.2d 437- First Issue
Clerk's Transcript of Superior Court herein
and in appeal to 434, Oct. Term 1969
of U.S. Supreme Court

The State Bar Act

An act to add Chapter 4, comprising sections 6000 to 6154, inclusive, to Division III and to add section 30018 to Division XXX of the Business and Professions Code, relating to the State Bar of California, its organization, government, membership and powers, the practice of law and the solicitation of legal business, and repealing acts and parts of acts specified herein.

Approved February 3, 1939. Statutes 1939, ch. 34, p. 347. In effect Sept. 19 1939. Amended Statutes 1939, ch. 930.
[Sections Amended subsequent to 1939 are indicated.]

The people of the State of California do enact as follows:

Section 1. Chapter 4, comprising sections 6000 to 6154, inclusive, is hereby added to Division III of the Business and Professions Code to read as follows:

CHAPTER 4. ATTORNEYS.

Article 1. General Provisions.

6000. This chapter of the Business and Professions Code constitutes the chapter on attorneys. It may be cited as the State Bar Act.
Origin: State Bar Act, sec. 1.

6001. The State Bar of California is a public corporation. It is hereinafter designated as the State Bar.

The State Bar has perpetual succession and a seal and it may sue and be sued. It may, for the purpose of carrying into effect and promoting its objectives:

(a) Make contracts.

(b) Borrow money, contract debts, issue bonds, notes and debentures and secure the payment or performance of its obligations.

6008.4. All powers granted to the State Bar by Sections 6001 and 6008.3 may be exercised and carried out by action of its board of governors. In any resolution, indenture, contract, agreement, or other instrument providing for, creating, or otherwise relating to, any obligation of the State Bar, the board may make, fix, and provide such terms, conditions, covenants, restrictions, and other provisions as the board deems necessary or desirable to facilitate the creation, issuance, or sale of such obligation or to provide for the payment or security of such obligation and any interest thereon, including, but not limited to, covenants and agreements relating to fixing and maintaining membership fees. (Added by Stats. 1957, ch. 1526.)

Article 3. Committees of the State Bar.

6040. The board of governors may create local administrative committees and delegate to them such of its powers and duties as seems advisable. The board may in its discretion divide any committee into units or sections with concurrent powers and duties in order to handle the work of the committee more expeditiously. The board may also prescribe the powers of the committee and the units or sections thereof.

Origin: State Bar Act, sec. 30.

6046. The board may establish an examining committee having the power:

(a) To examine all applicants for admission to practice law.

(b) To administer the requirements for admission to practice.

(c) To certify to the Supreme Court for admission those applicants who fulfill the requirements provided in this chapter.

Origin: State Bar Act, sec. 24.

6047. Subject to the approval of the board, the examining committee may adopt such reasonable rules and regulations as may be necessary or advisable for the purpose of making effective the qualifications prescribed in Article 4.

Origin: State Bar Act, sec. 24.1.

RULE VI. First-Year Law Students' Examination

Section 63. The first-year examination shall be conducted either by the committee or under its supervision or pursuant to its direction each year simultaneously in Los Angeles and in San Francisco, beginning on the last Monday in June. The examination shall be written, and shall consist of such questions as the committee may select on the subjects of contracts, torts, and criminal law. The passing grade shall be seventy per cent (70%) of the highest possible grade.

EXHIBIT "F"

STATE BAR ACT SECTIONS

6065. Any unsuccessful applicant for admission to practice, after he has taken any examination and within four months after the results thereof have been declared, has the right to inspect his examination papers in the city in which he wrote his examination, either at the office of the State Bar or at such place as the board designates.

The applicant also has the right to inspect the grading of the papers whether the record thereof is marked upon the examination or otherwise.

Origin: State Bar Act, sec. 38.

6068. It is the duty of an attorney:

(a) To support the Constitution and laws of the United States and of this State.

(b) To maintain the respect due to the courts of justice and judicial officers.

Attorney Given 1 to 5 Years for Soliciting Bribe to Quash Probe

Sought $35,000 to Quiet Inquiry Into Mysterious Disappearance of Woman

BY DOUG SHUIT
Times Staff Writer

Beverly Hills attorney Jerome Weber, 58, was sentenced to state prison for one to five years Monday for soliciting a $35,000 bribe to quash a district attorney's investigation.

However, Superior Judge Charles H. Older, after rejecting a motion for a new trial and denying probation, allowed Weber to remain free on his own recognizance pending an appeal.

Weber's attorney, James P. Cunningham, said the appeal would take "at least three years."

Weber, whose clients include many film personalities, was convicted June 8 of soliciting $35,000 to

Continued from Third Page

not only to Mr. Weber but also as a deterrent to other members of the legal profession" who would get involved in illegal activity.

"I think the sentence in this case has to stand as a clear warning to other," Judge Older said.

Weber, who has been practicing law since 1936, is an honorary life member of the De Molay Legion of Honor, and served on the mayor's Community Advisory Committee.

He also is a former "Man of the Year" of B'nai B'rith Hollywood Lodge, Temple Ner Tamid of Van Nuys and the West Valley Shrine Club.

Weber said in his probation report: "In so far as punishment is concerned, no words can express the agony that I have suffered as the result of the indictment, the trial, the decision and its attendant publicity."

gifts from businessmen and founda-
one operating industrial trusts.
and this business is so valuable
individual bar examines are
deprived of constitutional rights
to due process.

This is submitted to inquire what is the difference between what this individual offered to do and a big name university furnishing the State Court the free help needed to examine and hear individual complaints of Bar laxamtness? It is obvious a university then its alumni can practice law de facto notionally and pick up fees thru purported

Please Turn to Page 23, Col. 1

EXHIBIT "C"

Jerry Weber
Timesman

case of his "partners" he could [illegible] Mr. W[illegible]

[illegible] Nov. 24, the S[illegible] with her husband and with [illegible] he ou[illegible] of people [illegible]

Mrs. Wilson, a [illegible] Nov. 24, the S[illegible] with her husband and with [illegible] he ou[illegible] of people [illegible]

[illegible] on a remote [illegible] for an [illegible] Counselor [illegible] from [illegible]

[illegible] Weber's [illegible] of public [illegible] growth, [illegible] ous [illegible]

Counselor said his client [illegible] wife and [illegible]

"The penalty [illegible] than an [illegible] fee," Counselor said, adding that his client [illegible]

However, Judge Odell, in passing sentence, said a person sentenced in the case could, on the punishment

his client, Thomas [illegible] Davis, 30, who is charged with murdering a needle-[illegible] West Los Angeles woman in 1958.

At the time of the solicitation of the bribe, [illegible] Weber's [illegible] persons were [illegible] presence of the Ventura County Welfare [illegible] son, [illegible] who [illegible] peared in [illegible] up she took [illegible]

'An Insurance Policy'

Devins reportedly testified at a [illegible] grand jury hearing that Weber told him he could purchase "an insurance policy" from two friends in the prosecutor's office and that the investigation of the Wilson murder would be placed in "the inactive file."

Of the $1,500 Weber was to have received $500 and $250 was to have been paid to friends in the district attorney's office.

George Stone and George Murphy, the two district attorney's investigators named by Weber as his contacts, denied any complicity in the case and were supported by Dist. Atty. Lynn D. Compton, who said there was no evidence of any improper activity on their part.

During the trial, four tape recorded interviews were played into evidence. Weber is heard on the tapes that he

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IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1970
No. 451

TILDEN W. JOHNSON,

Appellant,

vs.

STATE BAR OF CALIFORNIA, a public corp., HUGH W. DARLING, SAMUEL C. PRUITT, JR., A. STEVENS HALSTED, JR., and HARVARD CLUB OF SOUTHERN CALIFORNIA,

Appellees.

Petition for a Rehearing

TILDEN W. JOHNSON
5630 Sawtelle Boulevard
Culver City, California 90230
(213) 398-1605 or 388-7104

In Propria Persona

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Appellees.

Petition for a Rehearing

Petitioner prays that this court grant a rehearing and/or reconsideration of the order of October 19, 1970 that reads:

> "The appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for a writ of certiorari, certiorari is denied."

To petitioner the holding of want of jurisdiction clearly indicates the U. S. Supreme Court from the papers and record considers the Calif. State Judgment was a void judgment and that a new suit can be filed in California thereon and that therefore Calif. State Process has not been completed and that therefore no final judgment exists and that therefore the U. S. Supreme Court lacks jurisdiction to hear the appeal.

On the other hand the appellees contend the holding of want of jurisdiction Petition 451 Oct. Term, 1970 means that a judge and justices sitting and deciding a case (over objections) where they are parties to the action in violation of sec. 170 of the California Code of Civil Procedure; Tumey v. Ohio, 47 S. Ct. 437; Payne v. Lee, 222 Minn 269; prohibiting such conduct does not violate the due process and equal process of law of the U. S. Constitution's 14th Amendment, and that since no violation occurs the U. S. Supreme Court lacks jurisdiction. This appellee interpretation conflicts with Tumey case decision, and Payne case.

The actual records and facts in this case are worse than even the papers herein show. I. e., Bar Associations the past 50 years have served as mere branch office through which big name universities individually and in concert practiced law and public relations as de facto law firms utilizing alumni and drawing fees thru foundations paying for services rendered insurance companies, etc. and insurance companies paying attorneys for political action

for tax-exempt foundations, etc. Said Bar Assoc. all the while used a fraudulent mathematical calculation of bar grades (under rating exam. papers from 20 to 30%) by taking advantage of public befuddlement regarding correct calculation of grades involving meaning of terms of ratio, percentage, percent and base (see Pet. 434, Oct. Term, 1969), or State Bars figured erroneously without an Engineer's license to figure.

It is apparent if the appellees' contention of the meaning of the court's dismissal of appeal, lawfully before the U. S. Supreme Court by right, is correct, candidates running for political offices such as Senator and Congressmen will use the failure of the U. S. Supreme Court and Senators and Congressmen's failure to investigate as evidence of Congressional dereliction of duty and cite some startling conditions and figures in behalf of their candidacies.

What appears to be transpiring is that State Bars are so dominating bar admittees that none of them protest the debasement of legal principles by construction and application of laws 180 degrees from the way they read. Further since recent U. S. Supreme Court voting and integration of schools rulings based on constitutional rights, State Courts, as occured in the era of prohibition, are refusing to enforce federal or state constitutional provisions, just stating "take it to the U. S.

Supreme Court." This is making chaos and mockery of all law and breaks down tort law and causes the big crime wave as people take to violence when tort law is not enforced by states, in civil suits.

Therefore, it is urged the U.S. Supreme Court meet this situation by changing the brief language in which it now disposes of 90% of appeals to it, or adopt a practice in cases as here of noting probable jurisdiction and force the complained of party to brief the case and expose his weak position.

CONCLUSION

For the reasons set forth above and in the Jurisdictional statements in petition 451, Oct. Term, 1970 and premature petition 434 of Oct. Term, 1969, it is respectfully urged that the U.S. Supreme Court reconsider and in its decision enlarge the statement "Appeal is dismissed for want of jurisdiction" by specifying the grounds assumed causing want of jurisdiction, i.e., "Calif. judgment void; Calif. process requires new suit before state process completed, thus no final state judgment"; or other grounds for holding "want of jurisdiction," or that the Court note probable jurisdiction of appeal and certiorari forcing appellees to try to brief an opposition or prove the accuracy of their mathematical calculations and judges trying their own cases.

It is submitted it is better for the U.S. Supreme Court to fully investigate this matter than wait for political candidates to air a scandalous national condition that should have been investigated by Congress 30 years ago at least.

Respectfully submitted,

TILDEN W. JOHNSON

In Propria Persona

CERTIFICATE

I hereby certify under penalty of perjury Sec. 2015.5 C.C.P. that the foregoing Petition for a rehearing and/or reconsideration is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the Rules of this Court.

Signed in Los Angeles, California, Nov. 10, 1970.

Tilden W. Johnson
In Per Se